

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:11cv74**

**FEDERAL DEPOSIT INSURANCE )  
CORPORATION, as Receiver for THE )  
BANK of ASHEVILLE, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
COLLIER DIMITRIS MARKET )  
HOLDINGS, LLC, et al., )  
 )  
Defendants. )  
\_\_\_\_\_ )**

**ORDER**

Pending before the Court is the Motion for Reconsideration [# 18]. The summary judgment deadline in this case expired on November 18, 2011. On December 2, 2011, the parties filed a motion requesting that the Court extend the deadline and allow Plaintiff to file an untimely summary judgment motion. The Court denied the motion without prejudice. (Order, Dec. 13, 2011.) Over two month later, Plaintiff requests that the Court reconsider its prior Order and allow it leave to file a summary judgment motion out of time.

Upon a review of the record, the Court **DIRECTS** the parties to appear for a Pretrial Conference on April 5, 2012, at 11:00 a.m. in Courtroom 2 at the United States District Court Western District of North Carolina, Asheville Division, 100

Otis Street, Asheville, North Carolina. The Court **INSTRUCTS** David R. Payne, Esq. that he is still counsel of record for Defendants in this case and **DIRECTS** him and Nicholas E. Dimitris to appear for the Pretrial Conference. The Court will allow Mr. Payne five (5) days from the entry of this Order to file a renewed Motion to Withdraw. The Court will deny the motion if it fails to comply with the Local Rules or fails to set forth good cause for his withdrawal. If Mr. Payne is allowed to withdraw Collier Dimitris Market Holdings LLC will be required to appear at the conference only through a licensed attorney admitted to practice in this court. If Collier Dimitris Market Holdings LLC does not appear at the conference though an attorney then the court will consider if the Answer and Counterclaim of that party should be dismissed and an entry of default entered. At the Pretrial Conference, the Court will consider Plaintiff's Motion for Reconsideration, however, the Court **ADVISES** the parties that they should be prepared to start trial in this matter on April 16, 2012.

Signed: March 7, 2012



Dennis L. Howell  
United States Magistrate Judge

